

## REMARKS

Applicants respectfully request reconsideration of the present application in view of the foregoing amendments and the following remarks.

### **I. Status of the Claims**

Claims 2, 6 and 21-24 are currently pending in the application, with claim 2 being the independent claim. Claims 1, 3 and 7-20 were previously canceled. Claims 4-5 are canceled without prejudice to or disclaimer of the subject matter therein. Claims 2 and 6 are amended. New claims 21-24 are added.

### **II. The Amendments to the Claims**

Claim 2 is amended to delete the phrase “wherein said nucleic acid molecule confers vascular-preferred polynucleotide transcription”.

Claim 6 is amended to recite that SEQ ID NO: 47 is operably linked to a gene encoding an RNA interference molecule. Support for the amendment to claim 6 is found in Example 8 at page 21 of the published patent application.

New claim 21 is directed to a vector comprising the isolated nucleic molecule of claim 2 operably linked to a gene encoding an RNA interference molecule. Support for new claim 21 is found throughout the specification and in particular at pages 9-10 of the published patent application.

New claims 22-24 correspond to claims 7-15 as originally filed. Claim 22 recites a plant cell transformed with the vector of the invention and claims 23-24 are drawn to a transgenic plant comprising a transformed plant cell and expressing the RNA interference molecule according to the invention. Support for new claims 22-24 may be found at pages 9-11 of the published patent application and in claims 7-15 as originally filed.

These amendments do not introduce any new matter into the application. The claims are amended to address the Examiner's concern with regard to claim patentability and place the claims in condition for allowance or, at least, in better form for appeal. Entry of these amendments after final is therefore respectfully requested.

**III. The Telephone Interview with the Examiner**

Applicants wish to thank Examiner Cynthia Collins for the courtesy extended to Applicants' representative during the telephonic interview held on February 7, 2008. The claims presented herein and the following remarks reflect the issues discussed and agreed upon during the telephone interview.

**IV. The Rejection Under 35 U.S.C. § 112, First Paragraph**

The Office Action, at pages 3-4, rejects claims 4 and 6 under 35 U.S.C. §112, first paragraph, because the specification allegedly does not provide enablement for isolated nucleic acid molecules other than the isolated nucleic acid molecule comprising SEQ ID NO: 47. Further, the Office Action alleges that the specification does not disclose that SEQ ID NO: 47 is capable of downregulating the expression of an operably linked gene. Applicants respectfully traverse this ground of rejection.

Without acquiescing to the propriety of the rejection, the foregoing cancels claim 4 and amends claim 6 to recite that SEQ ID NO: 47 is operably linked to a gene encoding an RNA interference molecule. In addition, new claim 21 is drawn to a vector comprising the isolated nucleic acid molecule of the invention and new claims 22-24 are directed to plant cells transformed with the vector and transgenic plants comprising the transformed plant cells and expressing an RNA interference molecule according to the invention. Example 8 in the specification shows that plant cells transformed with a vector comprising the xylem-specific promoter of the invention operably linked to a gene encoding an RNA interference molecule corresponding to a portion of an enzyme involved in lignin synthesis may be used to produce

transgenic plants that express a decrease in enzyme activity and are characterized by a change in content and composition of lignin. Thus, the claimed invention is fully enabled.

Reconsideration and withdrawal of this ground of rejection are therefore respectfully requested.

**V. The Double Patenting Rejection**

The Office Action, at page 4, alleges that claim 5 is a substantial duplicate of claim 2. Applicants respectfully traverse this rejection.

Solely to advance the application to allowance, and not in acquiescence with the rejection, claim 2 is amended to delete the recitation of an inherent limitation and claim 5 is canceled. Thus, the rejection is moot.

Reconsideration and withdrawal of this ground of rejection are therefore respectfully requested.

**VI. Allowable Subject Matter**

The Advisory Action states that newly proposed or amended claims 2, 6, 22, 24, 26 and 28 would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claims. In the present amendment claims 22, 24, 26 and 28 are renumbered as claims 21-24. Thus, this amendment presents allowable claims 2, 6 and 21-24 as requested by the Examiner. A Notice of Allowance is therefore earnestly solicited.

**CONCLUSION**

All of the stated grounds of rejection have been properly traversed or rendered moot. Thus, the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check or credit card payment form being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicants hereby petition for such extension under 37 C.F.R. § 1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

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